



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/975,348	10/11/2001	Erwin Tomm	TMM 2 0006	9778

7590

08/18/2003

Steven M. Haas  
FAY, SHARPE, FAGAN,  
MINNICH & McKEE, LLP  
1100 Superior Avenue, 7th Floor  
Cleveland, OH 44114-2518

EXAMINER

FLANDRO, RYAN M

ART UNIT

PAPER NUMBER

3679

DATE MAILED: 08/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/975,348

Applicant(s)

TOMM, ERWIN

Examiner

Ryan M Flandro

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 and 5-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 6-15 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 30 April 2003 has been entered.

#### ***Claim Objections***

3. Claims 1, 5, and 15 are objected to because of the following informalities:
  - a. Claim 1. Reference to first and second associated pole sections in lines 4 and 8, respectively, should be preceded by "the" rather than "a" in order to properly refer back to first and second associated pole sections recited in lines 1-2.
  - b. Claim 5. The word "a" should be removed from line 2 of the claim for grammatical purposes.
  - c. Claim 15. Reference to first and second *associated* pole sections (lines 3-4, 6-7, and 8-9) is inconsistent with initial recitation in line 1 of first and second telescoping pole sections. Further, the word "a" preceding each recitation of the pole sections starting in

line 3 should be changed to “the” in order to properly refer back to those pole sections previously recited in lines 1-2.

- d. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

4. In light of Applicant’s amendment to the claims submitted 30 April 2003, the rejection of claims 1 and 6 set forth in the final Office action (paper no. 6) under 35 USC §112, second paragraph, is hereby withdrawn.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-3, 7-12, 14, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by B.V Industrie en Handelonderneming CIFO (NL 7601311 A) (hereinafter referred to as “CIFO”).

- a. Claim 1. CIFO clearly shows a lock for temporarily fixedly securing first and second associated pole sections **9,1** in a telescoped arrangement, said lock comprising a base **11** defining an axially extending throughbore adapted for close sliding receipt of an end portion of [the] first associated pole section **9**; a neck **10** projecting from said base **11**; a collar **12** connected to said neck **10** and radially constrictable relative to said base **11**, said

collar **12** defining an opening aligned with said axially extending throughbore of said base **11**, said collar **12** adapted for close sliding receipt of [the] second associated pole section **1** partially telescoped into said first associated pole section **9**, wherein said collar **12** is defined by first and second collar portions connected to said neck **10** and terminating in respective first and second ears **14** arranged in spaced-apart relation to each other (see **13**), said ears **14** defining respective first and second bores **15**; a fastener **16** extending through said first and second bores **15** between said first and second ears **14**, said fastener **16** including a head abutting said first ear **14**, an unthreaded first portion (area adjacent head) frictionally engaged with a portion of said first ear **14** that defines said first bore to inhibit unintentional rotation of said fastener **16** and a threaded distal end (area opposite head) extending through said second bore **15** defined in said second ear **14** and projecting outwardly from said second ear **14**; a lever **17** having a head defining a threaded aperture that is threadably engaged with the threaded distal end of said fastener **16**, said lever **17** movable rotatably relative to said threaded distal end of said fastener **16** between an unlocked position in which said collar **12** slidably receives and accommodates the second associated pole section **1**, and a locked position in which said head of said lever **17** is advanced on said threaded distal end of said fastener **16** toward said head of said fastener **16** and urges said second ear **14** toward said first ear **14** to constrict said collar **12** radially relative to said base **11** into frictional gripping engagement with the second associated pole section **1** received in the collar **12**, wherein said first portion of said fastener **16** defines an unthreaded cylindrical conformation that is located in said first bore **15** defined by said first ear **14** with a tight frictional fit

sufficient to restrain said fastener **16** against rotation in response to movement of said lever **17** between said unlocked and said locked positions, wherein said fastener **16** is selectively rotatable via application of torque to said head sufficient to overcome said tight frictional fit between said unthreaded cylindrical conformation and said first ear **14** (see figures 1 and 2).

b. Claim 2. CIFO further shows each of said collar portions **12** are spaced axially from said base **11** (see figures 1 and 2).

c. Claim 7. CIFO shows a telescoping pole apparatus comprising a first pole section **9** defining a first bore (inner tubular area of **9**); a second pole section **1** slidably located in said first bore of said first pole section **9** in a telescoping arrangement; a lock connected to said first pole section **9** and adapted to secure said second pole section **1** axially relative to said first pole section **9**, said lock comprising a base **11** defining an axial throughbore, wherein an end portion of said first pole section **9** is located in said axial throughbore; a collar **12** connected to said base **11** and selectively radially constrictable relative to said base **11**, said collar **12** defining an opening aligned with said axial throughbore, said second pole section **1** projecting from said first bore of said first pole section **9** and through said opening of said collar **12**, said collar **12**, when radially constricted relative to said base **11**, firmly engaging and retaining said second pole section **1** in an axially and rotatably fixed position relative to said first pole section **9**; a fastener **16** connected to and frictionally engaged with said collar **12** so as to be restrained against unintended rotation relative to said collar **12**; said fastener **16** comprising a head at a first end and a threaded second end that projects outwardly from

said collar **12**; a control member **17** that mates threadably with said threaded end of said fastener **16**; said control member **17** selectively manually rotatable relative to said fastener **16** in first and second directions to constrict and expand said collar **12** radially, respectively, said fastener **16** restrained against rotation with said control member **17** by frictional engagement between said fastener **16** and said collar **12**, wherein said fastener **16** is selectively rotatable upon application of torque to said head sufficient to overcome said frictional engagement between said fastener **16** and said collar **12** (see figures 1 and 2).

d. Claim 8. CIFO further shows said control member **17** comprising a lever including a head defining a threaded aperture that receives said threaded end of said fastener **16**; and a shank extending from said head and defining a wide flat tab (see figures 1 and 2).

e. Claim 9. CIFO further shows a neck **10** projecting outwardly from said base **11**, wherein said collar **12** is connected to said neck **10** and axially spaced from said base **11** (see figures 1 and 2).

f. Claim 10. CIFO further shows said collar **12** including first and second collar portions that are connected to and project outwardly from said neck **10**, said first and second collar portions terminating in respective first and second terminal ends **14** that are spaced apart from each other and defined therebetween a gap **13** in said collar **12** (see figures 1 and 2).

g. Claim 11. CIFO further shows said first and second terminal ends **14** of said first and second collar portions defining respective first and second apertures **15** aligned with each

other, wherein said fastener **16** extends through aligned first and second apertures **15** (see figures 1 and 2).

h. Claim 12. CIFO further shows said fastener **16** comprises a head opposite said threaded end and a portion adjacent said head that frictionally engages said first terminal end **14** of said first collar portion whereby said fastener **16** is held against unintended rotation relative to said first and second collar portions upon rotation of said control member **17** relative to said fastener **16** (see figures 1 and 2).

i. Claims 3 and 14. CIFO further shows said base **11**, said neck **10** and said collar **11** are defined as a one-piece molded plastic construction (see figure 1).

j. Claim 15. CIFO shows a lock apparatus for securing first and second telescoping pole sections **9,1** relative to each other, said apparatus comprising a first portion **11** adapted for connection to an end portion of a first associated pole section **9**; a second portion **12** connected to said first portion **11** and defining a collar **12** that is selectively radially constrictable relative to said first portion **11** and adapted for receipt of a second associated pole section **1** partially telescoped into said first associated pole section **9**, said collar **12**, when radially constricted, firmly engaging and fixedly retaining a second associated pole section **1** received thereby, said collar **12** comprising first and second ears **14** separated from each other by a space **13**; a screw **16** extending through said first and second ears **14** of said collar **12** and including a headed end and an opposite threaded end, said screw comprising an unthreaded cylindrical portion that is tightly frictionally engaged with only one of said first and second ears **14**, said screw **16** selectively manually rotatable relative to said first and second ears **14** upon application of sufficient



torque to said headed end to overcome said frictional engagement between said cylindrical portion of said screw **16** and said one of said first and second ears **14**; and a lever **17** operably coupled to said threaded end of said screw **16** and adapted for rotation in a first direction on said screw causing said lever **17** to be advanced on said screw **16** towards said headed end so that said collar **12** is radially constricted, and adapted for rotation in a second direction opposite said first direction so that said lever **17** moves away from said headed end of said screw **16** and said collar **12** resiliently radially expands, wherein said tight frictional engagement between said unthreaded portion of said screw **16** and said one of said first and second ears **14** restrains said screw **16** against unintended rotation with said lever **17** when said lever **17** is moved in said first and second directions (see figures 1 and 2).

***Claim Rejections - 35 USC § 103***

7. Claims 6 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over CIFO, as applied above, in view of Fullerton (US 5,324,150). CIFO shows a threaded distal end of the fastener **16** but does not disclose or teach that the threaded distal end of the fastener **16** defines a double lead left-handed thread. Nevertheless, as taught by Fullerton, “[o]ne skilled in the art will recognize at once that threads can differ in many other ways, including, for example, lead, the number of thread (single, double, triple threads), the direction or ‘handedness’ of the thread (right-handed or left-handed). . . .” Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a double lead left-handed thread at

Art Unit: 3679

the end of the fastener of CIFO since such a configuration is commonly known within the art as taught by Fullerton.

***Response to Arguments***

8. Applicant's arguments, see paper no. 7 page 6, filed 30 April 2003, with respect to the rejection(s) of claim(s) 1-3 and 5-15 under 35 USC §§102, 103 have been fully considered and are persuasive, but are moot in view of the new ground(s) of rejection made under CIFO and Fullerton, as applied above.

***Allowable Subject Matter***

9. Claim 5 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. The following is a statement of reasons for the indication of allowable subject matter: the prior art, including CIFO and Fullerton, either alone or in combination, fails to include the smaller diameter second cylindrical portion located axially between the first portion and the neck.

***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to lever-activated locks for telescoping poles:

U.S. Patent 5,775,352 to Obitts

U.S. Patent 4,761,092 to Nakatani

U.S. Patent 4,111,575 to Hoshino

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan M Flandro whose telephone number is (703) 305-6952. The examiner can normally be reached on 8:30am - 5:30pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H Browne can be reached on (703) 308-1159. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for regular communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

RMF  
August 7, 2003

  
**Lynne H. Browne**  
***Supervisory Patent Examiner***  
**Technology Center 3670**